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OFFICE OF PETITIONS

In re Application of
Gregory C. Moser et al.
Application No. 10/813,297
Filed: March 30, 2004
Attorney Docket Number: 20341-73310

ON PETITION

This is a decision on the petition filed October 27, 2004, requesting that the above-identified application be accorded a filing date of March 30, 2004, instead of the presently accorded filing date of March 29, 2004.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on March 30, 2004, pursuant to the requirements of 37 CFR 1.10(d).

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is March 29, 2004, but argue that the application was actually deposited with the USPS on March 30, 2004.

In support, petitioners have provided a copy of Express Mail Customer label No. EL735255393US (the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file) showing a "date-in" of March 29, 2004, a copy of information found in the USPS Internet Track & Confirm Database and a certificate of Express Mail. The evidence from the USPS Internet Track & Confirm Database corroborates that an item bearing Express Mail Label No. EL735255393US was "enroute" on March 30, 2004 and not March 29, 2004. In view thereof, it is concluded that the correct date of deposit in Express Mail service is March 30, 2004. Therefore, the application is entitled to a filing date of March 30, 2004. Petitioner should note that there is no requirement of 37 CFR 1.10(d) for a certificate of mailing by "Express Mail".¹

The petition is **GRANTED**. In view thereof, no petition fee is due and none has been charged.

¹See 1174 O.G. Pat. Of. 92 (May 16, 1995).

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of March 30, 2004, not March 29, 2004.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions